

No. 68 of 1986.

National Water Supply and Sewerage Act 1986.

Certified on: / /20 .

INDEPENDENT STATE OF PAPUA NEW GUINEA.



No. 68 of 1986.

National Water Supply and Sewerage Act 1986.

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INDEPENDENT STATE OF PAPUA NEW GUINEA.



AN ACT

entitled

National Water Supply and Sewerage Act 1986,

Being an Act to establish a Waterboard, to provide for co-ordinated water supply and sewerage services in the country, to repeal previous legislation on the subject, and for related purposes.

PART I. – PRELIMINARY.

1. THE PURPOSES OF THIS ACT.

¹The purposes of this Act are to establish a Waterboard and to charge it with the duty of co-ordinating planning, design, construction, management of, and charging for, water supply and sewerage services throughout the country with the exception of the water supply and sewerage services of and pertaining to the National Capital District.

2. COMPLIANCE WITH CONSTITUTIONAL REQUIREMENTS.

(1) This Act, to the extent that it regulates or restricts a right or freedom referred to in Subdivision III.3.C (*qualified rights*) of the *Constitution* namely—

- (a) the freedom from arbitrary search and entry conferred by Section 44 of the *Constitution*; and
- (b) the right to privacy conferred by Section 49 of the *Constitution*,

is a law that is made for that purpose.

(2) For the purposes of Section 41 of the *Organic Law on Provincial Governments and Local-level Governments*, it is declared that this Act relates to a matter of national interest.

¹ Section 1 amended by *National Water Supply and Sewerage (Amendment) Act 1996* (No. 21 of 1996), s1.

(3) For the purposes of Section 53 (*protection from unjust deprivation of property*) of the Constitution, the purposes expressed in Section 1 are public purposes.

3. INTERPRETATION.

In this Act, unless the contrary intention appears—

“**the Board**” means the Board of Directors of the Waterboard established under Section 9;

“**customer**” in relation to water supply or sewerage means any person to whom service is provided under this Act;

²“**educational institution**” means an educational institution of any level and description other than a University;

³“**local authority**” means any urban or municipal authority established by an Act of Parliament or a provincial law and includes a development authority established under law or administrative action of the National Government or a Provincial Government;

“**occupier**” means a person in actual occupation of any land or, if there is no person in actual occupation, the person entitled to possession of the land;

“**owner**” includes—

(a) in relation to land the subject of a State lease under or continued in force by the *Land Act 1996*—the lessee under the lease; and

(b) where a person is in occupation of Government improved land under an agreement with the Government—that person;

⁴“**Local-level Government**” includes a Local-level Government as defined in the *Local-level Governments Administration Act 1997*, and a community government (other than a local authority) established by or under a provincial law;

⁵“**public health institution**” includes a health institution, a hospital or a health centre funded by the National Government, a Provincial Government, a local authority, a Local-level Government or a Church;

“**sanitation**” means all forms of waste disposal including sewerage;

² Section 3 (definition of “educational institution”) inserted by *National Water Supply and Sewerage (Amendment) Act 1989* (No. 31 of 1989), s1(a).

³ Section 3 (definition of “local authority”) inserted by *National Water Supply and Sewerage (Amendment) Act 1989* (No. 31 of 1989), s1(a).

⁴ Section 3 (definition of “Local-level Government”) inserted by *National Water Supply and Sewerage (Amendment) Act 1989* (No. 31 of 1989), s1(b).

⁵ Section 3 (definition of “public health institution”) inserted by *National Water Supply and Sewerage (Amendment) Act 1989* (No. 31 of 1989), s1(b).

“**sewage**” means any water contaminated by domestic wastes or trade effluent or any contents of a sewer;

“**sewerage charges**” means a charge related to the quantity of sewerage discharged;

“**sewerage district**” means an area declared under Section 27 to be a sewerage district;

“**sewerage system**” includes sewers, fittings, fixtures, appliances, plant, machinery and sewerage systems constructed for the purposes of treatment and conveyance of sewage but shall exclude traditional village systems;

“**tariff**” means a set of charges, rates and fees set under this Act;

“**this Act**” includes the Regulations, By-laws and Rules;

“**water**” means any water treated or untreated that is transported and made available to the public;

“**water supply district**” means an area declared under Section 27 to be a water supply district;

“**water supply charges**” means a charge based on the quantity of water supplied;

“**water supply system**” means a reservoir, well, bore, tank, aqueduct, tunnel, building, pipe or other system constructed for the purposes of supplying water but shall exclude traditional village systems;

“**Waterboard**” means the Waterboard established under Section 4;

“**Waterboard district**” means a sewerage district or a water supply district or a combination of both such districts.

3A. APPLICATION OF THIS ACT.

⁶This Act does not apply to or in relation to the water supply and sewerage services of and pertaining to the National Capital District.

⁶ Section 3A inserted by *National Water Supply and Sewerage (Amendment) Act 1996* (No. 21 of 1996), s2.

PART II. – ESTABLISHMENT, FUNCTIONS AND POWERS ETC., OF THE WATERBOARD.**4. ESTABLISHMENT.**

(1) The Waterboard is hereby established.

(2) The Waterboard–

(a) is a corporation with perpetual succession; and

(b) shall have a common seal; and

(c) may acquire, hold and dispose of property; and

(d) may sue and be sued in its corporate name.

(3) All courts, Judges and persons acting judicially shall take judicial notice of the common seal of the Waterboard affixed to a document and shall presume that it was duly affixed.

5. FUNCTIONS OF THE WATERBOARD.

The functions of the Waterboard are–

(a) to provide water supply and sanitation services to meet the reasonable needs of the urban population, Governments and business enterprises; and

(b) to promote water supply and sanitation in rural areas and urban fringe areas through community participation on self-help bases and where necessary with the help of loans, grants or aid; and

(c) to maintain its assets in good order; and

(d) to exercise such control as the Waterboard may determine over persons and organizations providing water supply and sanitation services, or services related to water supply and sanitation; and

(e) to set such standards as the Waterboard may determine for materials and equipment used in water supply and sanitation; and

(f) to advise the National Executive Council on all matters relating to water supply and sanitation; and

(g) to engage in research related to water supply and sanitation activities; and

(h) to carry out such other functions as are specified in this Act; and

(i) generally to do such supplementary, incidental or consequential acts and things as are necessary or convenient for carrying out its functions.

6. OBJECTIVES OF THE WATERBOARD.

In carrying out its functions under Section 5, the Waterboard shall pursue the following objectives:—

- (a) in its commercial activities to earn a rate of return as determined from time to time by the National Executive Council;
- (b) to engage in non-commercial activities, other than advisory research and control activities, only where an explicit subsidy for operations is made in the National Budget or by some other authority;
- (c) in the provision and promotion of water supply and sanitation services to contribute, as far as is practicable, to the improvement of public health by—
 - (i) making water supply and sewerage services available on a commercial basis to as many people in the urban areas as is practicable, and extending those services as rapidly as is practicable so that all people in urban areas have access to them; and
 - (ii) promoting water supply and sanitation with community participation on self-help bases, and where necessary with help of loans, grants or aid to as many people in the rural areas and in the urban fringe areas as is practicable;
- (d) to employ officers and employees in a working environment that contributes to a high level of staff morale and operational efficiency and, where appropriate, to assist officers and employees to gain the skills necessary for the career development consistent with the Waterboard's functions;
- (e) to be a responsible corporate citizen by—
 - (i) protecting the physical and social environment where practicable in relation to the Waterboard's activities; and
 - (ii) contributing to the national welfare but not so as to compete with any bodies whose main functions are promotion of welfare; and
 - (iii) refraining from providing services which are not justified by reasons of high cost or limited demand;
- (f) to keep abreast of and contribute to developments in the field of water supply and sanitation management, and to improve and extend water supply and sanitation services in the light of such developments bearing in mind the needs, goals and aspirations of the people, Governments and business enterprises;
- (g) to encourage the development of efficient national manufacturing, service and other industries related to the Waterboard's activities.

7. POWERS OF THE WATERBOARD.

The Waterboard has, in addition to the powers otherwise conferred by this Act and by any other law, power to do all things that are necessary or convenient to be done in connection with the performance of its functions and objectives.

8. DELEGATION.

The Waterboard may, by instrument, delegate to any person all or any of its functions and powers (except this power of delegation).

PART III. – ESTABLISHMENT, MEMBERSHIP AND MEETINGS OF THE BOARD OF DIRECTORS OF THE WATERBOARD.

9. ESTABLISHMENT AND MEMBERSHIP OF THE BOARD OF DIRECTORS OF THE WATERBOARD.

(1) There shall be a Board of Directors of the Waterboard .

(2) The Board shall consist of–

- (a) the Departmental Head of the Department responsible for finance matters or his nominee; and
- (b) the Departmental Head of the Department responsible for health matters, or his nominee; and
- (c) the Departmental Head of the Department responsible for works matters, or his nominee; and
- (d) one member representing private consumer groups with extensive experience in commerce, nominated by the Papua New Guinea Chamber of Commerce; and
- (e) one member with extensive experience of accounting and business practice, holding a senior accounting position, nominated by the Papua New Guinea Institute of Accountants; and
- (f) one member with extensive experience in the engineering of water supply and sanitation systems, holding a senior engineering position, nominated by the Society of Professional Engineers of Papua New Guinea; and
- (g) one member with extensive experience of management practice, holding a senior management position, nominated by the Papua New Guinea Institute of Management; and
- (h) the Managing Director.

(3) Where under Subsection (1)(a), (b) or (c) a nominee is nominated, the nominee shall be an officer of not less than Assistant Secretary level or the equivalent, and the Departmental Head concerned shall give prior written notice to the Managing Director of the name of the nominee.

(4) The members referred to in Subsection 1(d), (e), (f) and (g)–

- (a)⁷ shall be appointed in accordance with the *Regulatory Statutory Authorities (Appointment to Certain Offices) Act 2004*; and
- (b) shall be appointed for a period not exceeding three years; and
- (c) shall be appointed on such terms and conditions as are determined by the National Executive Council; and
- (d) are eligible for re-appointment.

⁷ Section 9 Subsection (4) amended by No. 97 of 2006, Sched. 1.

10. ALTERNATE MEMBERS.

(1) For each of the members appointed under Section 9(1)(d), (e), (f) and (g) an alternate member shall be appointed in the same way and subject to the same conditions as the member for whom he is alternate.

(2) In the event of the inability to act of a member, the alternate member has and may exercise all his powers, functions, duties and responsibilities and this Act applies accordingly.

(3) An alternate member may, unless the Board otherwise directs, attend all meetings of the Board but shall not, except where he is attending in the absence of the member for whom he is the alternate, take part in debate, vote on any matter or be counted towards a quorum.

11. CHAIRMAN AND DEPUTY CHAIRMAN.

The Head of State, acting on advice, shall appoint a member, other than the Managing Director, to be the Chairman of the Board, and another member to be the Deputy Chairman of the Board, for such period as is determined by the Head of State, acting on advice.

12. LEAVE OF ABSENCE.

The Chairman may grant leave of absence to a member on such terms and conditions as determined by the Board.

13. VACATION OF OFFICE.

(1) A member, other than an *ex officio* member, may resign his office by writing signed by him and delivered to the Managing Director.

(2) If a member, other than the Managing Director—

- (a) becomes permanently incapable of performing his duties; or
- (b) resigns his office under Subsection (1); or
- (c) is absent, except with the written consent of the Chairman, from three consecutive meetings of the Board; or
- (d) fails to comply with Section 15; or
- (e) becomes bankrupt, or applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his creditors or makes an assignment of his remuneration for their benefit; or
- (f) is convicted of an offence punishable under a law by a term of imprisonment for one year or longer, or by death, and as a result of the conviction is sentenced to imprisonment or death,

the Head of State, acting on advice, shall terminate his appointment.

(3) The Head of State, acting on advice, may, at any time, by written notice, advise a member that he intends to terminate his appointment on the grounds of inefficiency, incapacity or misbehaviour.

(4) Within 14 days of the receipt of a notice under Subsection (3), the member may reply in writing to the National Executive Council, who shall consider the reply, and, where appropriate, advise the Head of State to terminate the appointment.

(5) Where the member referred to in Subsection (3) does not reply in accordance with Subsection (4), his appointment is terminated.

14. VACANCY NOT TO AFFECT POWERS OR FUNCTIONS.

The exercise or performance of a power or function of the Board is not invalidated by reason of a vacancy in the membership of the Board.

15. DISCLOSURE OF INTEREST.

(1) A member who has a direct or indirect interest in a matter being considered or about to be considered by the Board, otherwise than as a member of, and in common with the other members of, an incorporated company which consists of more than 25 persons and of which he is not a director, shall, as soon as the relevant facts have come to his knowledge, declare his interest at a meeting of the Board.

(2) A declaration under Subsection (1) shall be recorded in the minutes of the Board and the member—

- (a) shall not take part, after the declaration, in any deliberation or decision of the Board in relation to the matter; and
- (b) shall be disregarded for the purpose of constituting a quorum of the Board in that deliberation or decision.

16. MEETINGS OF THE BOARD.

(1) The Board shall meet as often as the business of the Waterboard requires, and at such times and places as it determines, or as the Chairman, or in his absence, the Deputy Chairman, directs, but in any event not less frequently than once in every three months.

(2) Where he receives a request to do so by the Managing Director or by not less than two members, the Chairman, or in his absence the Deputy Chairman, shall convene a meeting of the Board within 14 days.

(3) At a meeting of the Board—

- (a) four members constitute a quorum; and
- (b) the Chairman, or in his absence the Deputy Chairman, shall preside and if both the Chairman and the Deputy Chairman are absent the members present shall appoint a Chairman for that meeting from among their own number; and

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- (c) matters arising shall be decided by a majority of the votes of the members present and voting; and
 - (d) the person presiding has a deliberative, and in the event of an equality of votes on any matter, also a casting vote.
- (4) The Board shall cause minutes of its meetings to be recorded and kept.
- (5) Subject to this Act, the procedures of the Board are as determined by the Board.

PART IV. – MANAGING DIRECTOR.

17. APPOINTMENT, ETC., OF MANAGING DIRECTOR.

(1) There shall be a Managing Director of the Waterboard who shall be—

- (a)⁸ appointed, suspended and dismissed in the manner as is specified in the *Regulatory Statutory Authorities (Appointment to Certain Offices) Act 2004*; and
- (b) appointed for a period of three years and be eligible for reappointment; and
- (c) the Chief Executive of the Waterboard; and
- (d) the Head of the service.

18. TERMINATION OF APPOINTMENT.

(1) Where the Managing Director—

- (a) becomes permanently incapable of performing his duties; or
- (b) resigns his office by writing under his hand addressed to the Head of State through the Board; or
- (c) engages, without the written consent of the Board, in any paid employment outside the duties of his office; or
- (d) becomes bankrupt or applies to take the benefit or any law for the relief of bankrupt or insolvent debtors, compounds with his creditors or makes an assignment of his remuneration for their benefit; or
- (e) is convicted of an offence punishable under a law by death or by imprisonment for one year or longer, and as a result of the conviction, is sentenced to death or imprisonment,

the Head of State, acting on advice, given after considering a report from the Board, shall terminate his appointment.

(2) The Head of State, acting on advice, may, at any time, by written notice, advise the Managing Director that he intends to terminate his appointment on ground of inefficiency, incapacity or misbehaviour.

(3) Within 14 days of the receipt of a notice under Subsection (2), the Managing Director may reply in writing to the Head of State, who shall, acting on advice, consider the reply and where appropriate, terminate his appointment.

(4) Where the Managing Director does not reply in accordance with Subsection (3), his appointment is terminated.

⁸ Section 17 Subsection (1) amended by No. 97 of 2006, Sched. 1.

19. PUBLIC SERVICE RIGHTS.

Where an officer of the Public Service or other National Government authority is appointed to be Managing Director, his service as Managing Director shall be counted as service in the Public Service for the purpose of determining his rights (if any) in respect of all accrued benefits.

20. FUNCTIONS OF MANAGING DIRECTOR.

(1) The Managing Director shall—

- (a) manage the Waterboard and shall, in relation to the management of the Waterboard, act in accordance with the policy and direction of the Board; and
- (b) advise the Board on any matter concerning the Waterboard referred to him by the Board.

(2) The Managing Director has such other functions as the Board from time to time determines.

PART V. – STAFF OF THE WATERBOARD.

21. APPOINTMENT OF OFFICERS .

(1) The Waterboard may appoint to be officers of the Waterboard such persons as it thinks fit and necessary for the purposes of the Waterboard.

(2) The Managing Director and officers of the Waterboard constitute the staff of the Waterboard.

(3) Where an officer of the Waterboard was, immediately before his appointment, an officer of the Public Service or other National Government Authority, his service as an officer of the Waterboard shall be counted as service in the Public Service for the purpose of determining his rights (if any) in respect of all accrued benefits.

(4) Subject to this Act and to the *Salaries and Conditions Monitoring Committee Act 1988*, officers hold office on such terms and conditions as are determined by the Board.

22. RULES FOR THE STAFF OF THE WATERBOARD.

(1) The Rules may make provision in relation to the staff of the Waterboard and, in particular, may—

- (a) subject to the *Salaries and Conditions Monitoring Committee Act 1988*, prescribe the terms and conditions of employment; and
- (b) make provision for a superannuation or other retirement benefits scheme to provide benefits for the staff; and
- (c) prescribe disciplinary procedures, creation and abolition of offices, classification of offices, promotion of officers and other matters for the regulation of the service of the Waterboard.

(2) In the absence of Rules under Subsection (1), the provision of Regulations or General Orders pertaining to the National Public Service shall, in so far as applicable, apply.

23. OTHER EMPLOYEES.

(1) The Managing Director may appoint such other employees, on such conditions as he thinks necessary for the purposes of the Act.

PART VI. – FINANCES, ETC.

24. APPLICATION OF PUBLIC FINANCES (MANAGEMENT) ACT 1995.

(1) The *Public Finances (Management) Act 1995* applies to and in relation to the Waterboard.

(2) The Waterboard is a trading enterprise for the purpose of Section 62 of the *Public Finances (Management) Act 1995*.

(3) For the purposes of Section 59 of the *Public Finances (Management) Act 1995* tenders shall be publicly invited and contracts taken by the Waterboard for all works, supplies and services, the estimated cost of which exceeds K10,000.00 or any other figure as declared by the Minister responsible for finance matters.

25. TARIFF, RATES, FEES AND CHARGES.

(1) Subject to any determination under Section 21 of the *Prices Regulation Act 1949*, the Board may fix and set a tariff, rates, fees and charges to be made for goods and services supplied by the Waterboard.

(2) Notification of the tariff, rates, fees and charges fixed under Subsection (1) shall be made in the National Gazette and otherwise as the Board determines.

25A. WAIVER OF RATES.

⁹The Minister may, upon application or request by a public health institution or an educational institutional, by notice in the National Gazette, waive or reduce the payment of a tariff, rates, fees and charges payable by that institution.

⁹ Section 25A inserted by *National Water Supply and Sewerage (Amendment) Act 1989* (No. 31 of 1989), s2.

PART VII. – POLICY, STANDARDS, LICENSING, ETC.

26. POLICY, STANDARDS, LICENSING, ETC.

(1) The Waterboard shall set policy and standards for, and establish a system of licensing and regulation of, plumbers throughout the country.

(2) The Waterboard shall approve and license and set licensing fees for all water supply and sewerage systems not operated by the Waterboard.

(3) Any tariff set in respect of a water supply or sewerage system not operated by the Waterboard shall be submitted to the Waterboard and shall have no effect until approved by the Waterboard, except that any such tariff in effect immediately before the coming into operation of this Act shall be deemed to have been approved by the Waterboard until further advised by the Waterboard.

(4) A person who, without the prior approval of the Waterboard, constructs, operates or manages any public water supply and sewerage system, is guilty of an offence.

Penalty: A fine not exceeding K10,000.00.

(5) All other matters pertaining to national standards, policy, land matters and easements, licences and approvals under this section shall be as prescribed in the Regulations, By-laws or Rules.

PART VIII. – SEWERAGE AND WATER SUPPLY DISTRICTS, ETC.**27. SEWERAGE DISTRICTS AND WATER SUPPLY DISTRICTS .**

(1) The Minister may, on the recommendation of the Board, declare an area to be—

- (a) a sewerage district; or
- (b) a water supply district.

(2) The Waterboard may operate and maintain either through acquisition under this Act or by construction—

- (a) sewerage systems in a sewerage district; and
- (b) water supply systems in a water supply district.

(3) The By-laws or Regulations may make provision for all matters relating to the water supply and sewerage systems protection and control and the assessment and recovery of water supply and sewerage rates, charges and fees under this Act.

27A. DELEGATION OF POWERS AND FUNCTIONS.

¹⁰(1) The Board may, upon the application of a local authority or a Local-level Government, by notice in the National Gazette, and on such terms and conditions as the Board determines, delegate to the local authority or Local-level Government, as the case may be, any or all of the powers and functions of the Board to provide water supply and sewerage if the local authority or the Local-level Government, as the case may be, has shown to the satisfaction of the Board that it has the capacity to provide water supply and sewerage.

(2) Any tariff, rates, fees and charges collected on water and sewerage by a local authority or the local level government, as the case may be, under Subsection (1), shall be paid into the consolidated revenue of that local authority or Local-level Government, as the case may be.

28. DECLARATION BY THE MINISTER.

(1) The Minister may, on the recommendation of the Board, by notice in the National Gazette, declare any water supply system or sewerage system, by whatever name called to be a water supply district or a sewerage district under this Act.

(2) A water supply system or sewerage system to which this section applies shall, on the date of publication of the notice under Subsection (1), together with all the lands, goods, materials and things forming part of that water supply system or sewerage system, vest in the Waterboard and be the property of the Waterboard.

¹⁰ Section 27A inserted by *National Water Supply and Sewerage (Amendment) Act 1989* (No. 31 of 1989), s3.

29. SAVING OF CONTRACTS.

All contracts, agreements, conveyances, deeds, leases, licences and other instruments and undertakings entered into by, made with, or addressed to, any person or body in respect of any water supply system or sewerage system the property of the Waterboard by virtue of Section 28, being a person who, or body which, immediately before publication of the notice under that section, was responsible for the management or operation of the water supply system or sewerage system, as the case may be, shall to the extent that they were previously binding on and enforceable against that person or body, be, on publication of the notice, binding and of full force and effect in every respect against or in favour of the Waterboard as fully and effectually as if, instead of that person or body, the Waterboard had been a party to them or bound by them or entitled to the benefit of them.

30. ACTIONS, ETC., NOT TO ABATE.

Where, immediately before publication of a notice under Section 28, any action, arbitration or proceeding, or any cause of action, in relation to the water supply system or sewerage system, the subject of the notice, was pending or existing by, against or in favour of, the person or body referred to in Section 29, it does not, on the publication of the notice, abate or discontinue to be affected in any way by any provision of this Act, but may be prosecuted, continued and enforced by, against or in favour of the Waterboard as and when it could have been enforced by, against or in favour of, that person or body.

31. APPLICATION OF ACTS, ETC.

Where a notice under Section 28 has been published in respect of any water supply system or sewerage system—

- (a) any Act or subordinate legislation other than this Act; or
- (b) any document or instrument whenever made or executed,

in which a reference express or implied is made to the person or body responsible for the management or operation of those water supply system or the sewerage system, as the case may be, immediately before publication of the notice, shall after that publication and except where the contrary intention appears, be construed and has effect as a reference to the Waterboard.

PART IX. – MISCELLANEOUS.**32. PROTECTION FROM PERSONAL LIABILITY.**

A member of the Board, or officer, employee or agent of the Waterboard is not personally liable for any act or default of himself or the Waterboard done or omitted to be done in good faith in the course of the operation of the Waterboard, or for purposes of the Waterboard.

33. BUILDING ACT PROVISIONS.

Where any provisions in this Act relating to plumbing, draining, water supply, sewerage or sanitation matters are inconsistent with provisions of the *Building Act 1971* and regulations made thereunder, the provisions of this Act shall apply.

34. QUALITY STANDARDS TO COMPLY WITH OTHER LEGISLATION.

All provisions of this Act, in so far as relating to quality standards, shall comply with the provision of the *Public Health Act 1973* and the *Water Resources Act 1982*.

35. REGULATIONS.

The Head of State, acting on advice, may make regulations, not inconsistent with this Act, prescribing all matters that by this Act are required to be prescribed or are permitted to be prescribed or are necessary or convenient to be prescribed for carrying out or giving effect to this Act, and in particular for prescribing fees and charges for any services and for prescribing penalties (including minimum penalties) for offences of fines not exceeding K10,000.00 and default penalties of fines not exceeding K500.00.

36. BY-LAWS.

(1) The Board may make By-laws not inconsistent with this Act for carrying into effect the purposes of this Act.

(2) A person who contravenes or fails to comply with a provision of a By-law is guilty of an offence.

Penalty: A fine not exceeding K1,000.00.

Default penalty: A fine not exceeding K100.00.

(3) A By-law shall have no force and effect until approved by the Head of State, acting on advice, and published in the National Gazette.

37. RULES.

The Board may make Rules.

38. ADOPTION OF STANDARD CODES.

(1) The By-laws may adopt a standard code or procedure laid down by the National Standards Council or any other authority approved by the Waterboard in relation to—

- (a) the construction, maintenance or operation of plant or machinery; or
- (b) the carrying out of processes; or
- (c) any other matter of thing within the function of the Waterboard.

(2) In adopting a standard code or procedure under Subsection (1), the By-laws may adopt it subject to such modifications, conditions or restrictions as are prescribed in the By-laws.

(3) A standard code or procedure adopted under Subsection (1) shall be deemed to form part of the By-laws, subject to any modifications, conditions or restrictions effected under Subsection (2), and non-compliance with such standard code or procedure shall be non-compliance with the provisions of the By-law.

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PART X. – REPEAL.

39. REPEAL.

The following Acts are repealed:–

- (a) *National Water Supply and Sewerage Act* (Chapter 393);
- (b) *Water Supply (Papua) Act* (Chapter 328).

PART XI. – TRANSITIONAL AND SAVINGS.

40. INTERPRETATION.

In this Part–

“**former Board**” means the National Water Supply and Sewerage Board established under the repealed Act;

“**repealed Acts**” means the Acts repealed by Section 38.

41. TRANSFER OF ASSETS.

All assets (other than land held by the State) which immediately before the coming into operation of this Act were occupied or held by the former Board and all obligations and liabilities of the former Board immediately before that coming into operation are, on that coming into operation, transferred to the Waterboard.

42. SAVING OF CONTRACTS.

All contracts, agreements, conveyances, deeds, leases, licences and other instruments and undertakings entered into, made with or addressed to the former Board shall, to the extent that they were previously binding on and enforceable against the former Board, be, on the coming into operation of this Act, binding and of full force and effect in every respect against or in favour of the Waterboard as if, instead of the former Board, the Waterboard had been a party to them or bound by them or entitled to the benefit of them.

43. ACTIONS NOT TO ABATE.

Where, immediately before the coming into operation of this Act, any action, arbitration or proceeding, or any cause of action was pending or existing by, against or in favour of the former Board, it does not, on that coming into operation, abate or discontinue or be affected in any way by any provision of this Act, but may be prosecuted continued and enforced by, against or in favour of the Waterboard as and when it could have been enforced by, against or in favour of the former Board.

44. STAFF.

An officer holding an office or appointment under Part IV of the *National Water Supply and Sewerage Act* (Chapter 393) (repealed) immediately before the coming into operation of this Act shall, on that coming into operation, be deemed to hold the equivalent office or appointment under this Act and on the same terms and conditions, until such time as appointments are made, and terms and conditions determined, under this Act.

45. WATER DISTRICT, ETC.

An area declared under the repealed Acts to be–

- (a) a water district; or
- (b) a sewerage district,

shall be deemed to be a District declared under Section 27.

46. APPLICATION OF ACTS, ETC.

Where—

- (a) any Act or subordinate legislation other than this Act; or
- (b) any document or instrument whenever made or executed,

contains a reference to the repealed Act or to the former Board, that reference shall, after the coming into operation of this Act be deemed to be a reference to this Act or to the Board, as the case may be.

47. CONTINUATION IN OFFICE OF THE BOARD.

The Chairman, Deputy Chairman and members of the National Water Supply and Sewerage Board established under the repealed Acts, holding office immediately before the coming into operation of this Act shall, on that coming into operation and during the period until appointments to the Board of Directors are made under this Act, be deemed to be the Chairman, Deputy Chairman and members respectively of the Board of Directors of the Waterboard and during that period the Waterboard shall be deemed to be validly constituted and the quorum and procedure of meetings shall be as provided in the repealed Acts.

48. CONTINUATION IN FORCE OF CERTAIN PROVISIONS IN REPEALED ACTS.

The provisions of Parts V, VI, VII and VIII of the *National Water Supply and Sewerage Act* (Chapter 393) (repealed) and of the Regulation made thereafter, in force immediately before the coming into operation of this Act, shall, on that coming into operation, continue in force, in so far as not inconsistent with the provisions of this Act, until such time as the appropriate provisions are made by Regulation, By-law or Rule under the Act.

Office of Legislative Counsel, PNG